THE HON'BLE SRI JUSTICE RAMESH

RANGANATHAN

W.P.No. 5294 OF 1997

Date: 01.02.1997

Between:

P. Radhakumari.

... Petitioner

and

The Registrar, Jawaharlal Nehru Technological University, Masab Tank, Hyderabad.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 5294 OF 1997

ORDER:

The petitioner was appointed on temporary basis as Clerk-cum-Typist in the respondent University. The qualifications prescribed for Clerk-cum-Typist when the petitioner was appointed in 1984 was a pass in the S.S.C. examination which qualification the petitioner possessed. Along with several others, petitioner also filed W.P. No. 1380 of 1990 which was allowed by order dated 08.11.1991. This Court, following the judgment of the Supreme Court **Bhagawathi Prasad Vs. Delhi State Mineral Development Corporation**[1], held that such of the petitioners, who were working for more than three years, could be considered for appointment in the regular post, if they applied for the posts pursuant to the notification to be issued by the respondent-University and if they qualify in accordance with the relevant rules. The Learned Single Judge also observed that such consideration would be subject to rules or orders of Government relating to reservation of specified categories of persons as they apply for employment in the University.

The direction in W.P. No. 1380 of 1990 was that the cases of the petitioners be considered for

appointment in regular posts if they qualified in accordance with the relevant rules. Since the petitioner possesses the qualifications of 8th class for being considered for appointment as Lab Attender she applied for that post and pursuant to the selection process she was considered and appointed as a Lab Attender.

Sri V. Jagapathi, learned Counsel for the petitioner would submit that the petitioner had applied for the post of Lab Attender without prejudice to her rights for being appointed as Junior Assistant as she passed S.S.C. at the time of her initial appointment.

Sri K. Ratanga Panireddy, learned Counsel for the respondent would refer to the averments in the counter affidavit wherein this fact was specifically disputed and it is stated that she applied for the post of Lab Attender only.

After being appointed as Lab Attender on 15.05.1993 the petitioner approached this Court by way of the present writ petition nearly four years thereafter in March, 1997, placing reliance on the Division Bench judgment of this Court, in Writ Appeal No. 631 of 1996 dated 20.06.1996, wherein it was observed that the qualification on the date of initial appointment was the relevant criteria, and any subsequent change in the qualifications would not disentitle consideration of an employee who continued to hold the post on the basis

of the qualifications which existed at the time of her initial appointment. It is necessary to note that Smt. N. Devi Subhashini had preferred W.P. No. 7195 of 1993 and aggrieved by the order passed in the said writ petition dated 30.10.1995 Writ Appeal No. 631 of 1996 was preferred. The order in W.P. No. 7195 of 1993 dated 30.10.1995 and the order in the Writ Appeal 631 of 1996 dated 20.06.1996 are both subsequent to the petitioner's selection and appointment as a Lab Attender on 15.05.1993. The petitioner, having permitted the order of this Court in W.P. No. 1380 of 1990 dated 08.11.1991, to attain finality is bound by the order passed therein and, having been appointed in the post of Lab Assistant in accordance with the orders passed in the said writ petition, it is not open to the petitioner, four years thereafter, to question her very appointment as Lab Assistant on the ground of a subsequent order of a Division Bench of this Court or to contend that she should have been appointed in the higher post of Junior Assistant. The writ petition as filed is wholly misconceived and is accordingly dismissed. However, in the circumstances, without costs.

_

_____

Date: 01.02.2007 RAMESH RANGANATHAN, J

MRKR

---

[1] AIR 1990 SC 371